



**Department of Energy**  
Washington, DC 20585

September 28, 2012

Chairman Daniel R. Elliott III  
Office of Chairman  
Surface Transportation Board  
395 E Street, SW  
Washington, D.C. 20420-0001

RE: Docket Nos. 38302S and 38376S

Dear Chairman Elliott:

The order entered in these dockets July 27, 2005 (served August 2, 2005, and effective September 1, 2005), approving the Government's settlement agreement with Union Pacific Railroad Company, further held these proceedings in abeyance while directing the Government to file quarterly reports on the progress of settlement negotiations. This report updates our most recent report of June 29, 2012.

We are pleased to report that on September 4, 2012, the Government and BNSF filed with the Board the Joint Motion of the U.S. Department of Energy, the U.S. Department of Defense, and BNSF Railway Company for Approval of Settlement Agreement and Prescription of Rate Methodology. We continue efforts toward a settlement and finalized settlement documents with Norfolk Southern. We will file a further report by the end of December 2012.

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Office of Proceedings

SEP 28 2012

Part of  
Public Record

Sincerely,

Stephen C. Skubel  
Assistant General Counsel  
For Litigation  
(202) 586-5579

cc: Vice Chairman Francis P. Mulvey  
Board Member Ann D. Begeman

Attached Service List

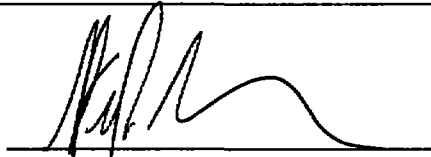


**CERTIFICATE OF SERVICE**

I, Stephen C. Skubel, hereby certify that I served a copy of the foregoing document by prepaid first-class mail this 28th day of September 2012, on the following:

Aberdeen & Rockfish R.R. Co. P.O. Box 917 Aberdeen, NC 28315	Buffalo & Pittsburgh Railroad c/o Genesee & Wyoming, Inc. 66 Field Point Road Greenwich, CT 06830
Montana Rail Link, Inc. 101 International Way Missoula, MT 59808	James R. Paschall Greg E. Summy Norfolk Southern Railway Company Three Commercial Place Norfolk, VA 23510
Michael L. Rosenthal Covington & Burling 1201 Pennsylvania Avenue, NW Washington, D.C. 20004-2401	Jill Mulligan The Burlington Northern and Santa Fe Railway Company 2500 Lou Menk Drive, 3rd Floor Fort Worth, TX 76131
Paul Hitchcock Associate General Counsel CSX Transportation, Inc. 500 Water Street - J150 Jacksonville, FL 32202	Theodore K. Kalick Canadian National Railway Company 601 Pennsylvania Avenue, N.W. Suite 500 North Building Washington, D.C. 20004
Chris Guzzi Deborah Sedaris Providence & Worcester Railroad Co. 75 Hammon Street Worcester, MA 01610	Robert G. Culliford, Esq. Guilford Transportation System Iron Horse Park North Billerica, MA 01862
Richard D. Robey, President North Shore Railroad Company 356 Priestly Avenue Northumberland, PA 17857	J. Michael Hemmer Louise A. Rinn Union Pacific Railroad Company 1400 Douglas Road, Stop 1580 Omaha, NE 68179
George H. Kleinberger P.O. Box 8002 Clifton Park, NY 12065	Ronald E. Fittrow 500 Water Street Jacksonville, FL 32202

D.J. Lewis Director of Marketing Tuscola & Saginaw Bay Railway Company 308 West Main Street Matthews Building, Suite 303 Owosso, MI 48867	Paul Guthrie Canadian Pacific Railway Company 401 9th Avenue, S.W. Gulf Canada Square, Suite 500 Calgary, Alberta T2P 4 Z4 Canada
Samuel M. Sipe, Jr. Carolyn D. Clayton Steptoe & Johnson LLP 1330 Connecticut Avenue, N.W. Washington, D.C. 20036	Robert H. Wheeler General Counsel Wisconsin Chicago Link Ltd. 17641 Ashland Avenue Homewood, IL 60430
Terence M. Hynes Sidley Austin Brown & Wood, LLP 1501 K Street, N.W. Washington, D.C. 20005	Thomas J. Litwiler Fletcher & Sipple LLC 29 North Wacker Drive Suite 920 Chicago, IL 60606



Stephen C. Skubel